USDA United States Department of Agriculture | Forest Service | Sula Ranger District | 7338 Hwy 93 S. Sula, MT 59871 406-821-3201

File Code: 1950-1
Date: February 2, 2009

Dear Interested Party,

Thank you for expressing an interest in the proposal to reissue a Term Grazing Permit on the Waugh Gulch and Andrews Grazing Allotments with prescriptions that will improve the conditions of soil, water and vegetation resources in the project area.

I have enclosed a copy of the Decision Notice and Finding of No Significant Impact, (DN/FOSNI), on the Waugh Gulch and Andrews Grazing Allotments on the Sula Ranger District for your review and information. I am selecting Alternative 2 of the Waugh Gulch and Andrews Grazing Allotments Environmental Assessment published in June 2008. Under this preferred alternative I have decided to:

- Reissue a Term Grazing Permit that combines the Andrews and Waugh Gulch Allotments. The combined Allotment will be known as the Waugh Gulch - Andrews Grazing Allotment.
- Reduce the current stocking levels approximately 30%, from 470 animal unit months, (AUMs), to 330 AUM's.
- Reduce the duration of grazing on the combined Allotments: with the maximum stocking rate applied the duration would drop from the currently permitted uninterrupted duration of seventeen weeks to approximately nine weeks. This diminishes the time span of livestock presence on the project area by around 50%.
- Utilize a prescription that introduces flexibility in pasture rotation that will result in regular deferment and periodic rest from livestock use. Alternative 2 will use an adaptive management option to install several structures to improve livestock distribution and use patterns if effectiveness and/or implementation monitoring shows a pattern of non-compliance with Forest Plan objectives. The decision also authorizes the construction of up to two miles of fence, four spring developments and a small holding corral to facilitate livestock management. The structural improvements may include:
  a) up to two miles of fence, approximately 1.5 miles potentially in the West Fork Pasture and about 1.5 miles in the Waugh Pasture.
  b) up to four new spring developments in the Waugh Pasture.
  c) a small corral facility in the Waugh Pasture.

The selected alternative fulfills the requirements of the Rescission Bill and supports the goals, objectives, standards and guidelines of the Bitterroot Forest Plan.

All aspects of Alternative 2 are consistent with Forest Plan management direction for all Management Areas, MA's, (#s 1,2,3a,3b,5 and 8a), in the project area as well as the small portion of the Allan Mountain Roadless Area that falls within the project area, (Project File).

The details of this action are described in Alternative 2 of the attached Decision Notice and also in the June, 2008 Environmental Assessment sent to you last summer.

Two letters provided comments on the Environmental Assessment. The responses to both comment letters are attached to the Decision Notice as Appendix B.

It is my belief that the Alternative selected, #2, represents very progressive range management by reducing stocking numbers and allowing for rest/rotation and adaptive management based on monitoring results.

The process for submitting an appeal is described in the DN/FONSI. If you have any questions about this decision, please contact me or Gil Gale at the Sula Ranger Station, 7331 Hwy 93 South, Sula, MT 59871, 406-821-3201

Sincerely,

Ruth M. Wooding

RUTH M. WOODING
Sula District Ranger

ENVIRONMENTAL ASSESSMENT
Waugh Gulch and Andrews Grazing Allotments

DECISION NOTICE AND FINDING OF NO SIGNIFICANT IMPACT

Bitterroot National Forest
Sula Ranger District
Ravalli County, Montana

February
2009

Lead Agency:	United States Forest Service
Responsible Official:	Ruth Wooding District Ranger Sula Ranger District Bitterroot National Forest
For Further Information, Contact:	Ruth Wooding Sula Ranger District 7338 Hwy 93 South Sula, MT 59871 (406) 821-3201

DECISION NOTICE

DECISION AND REASONS FOR THE DECISION

The Waugh Gulch and Andrews Grazing Allotments Reauthorization involves reissuing a Term Grazing Permit for the project area with a reduced stocking rate and the option of installing several range improvement structures. The project area covers about 10,520 acres in the West Fork of Camp Creek, Waugh Creek, Maynard Creek and Andrews Creek watersheds in T 1N, R 19-20 W and T 1S, R 19-20W. The area extends from Sula southward about eight miles within the Sula Ranger District, Bitterroot National Forest. The purpose and need for this project (described in detail in the Environmental Assessment on pages 1-3 to 1-4) is to:

1) comply with the 1995 Rescission Bill that established environmental analysis schedules for grazing allotments
2) define the appropriate level of grazing, identify the resource protection steps needed to meet Forest Plan standards and initiate or maintain improving resource condition trends where needed

These actions respond to the goals and objectives outlined in the Bitterroot Forest Plan (1987) and helps move the project area towards desired conditions described in that plan. The grazing reauthorization project is within Management Areas (MAs) 1, 2, 3a, 3b, 5 and 8a as shown on Map 2 of the EA. The following Forest Plan objectives (Chapter II of the Forest Plan) apply to the Waugh-Andrews Allotments project:

- Maintain or enhance fish habitat. Note that for this item the Forest Plan primarily focuses on the need to mitigate the effects of timber harvest and roads.

- Provide forage for the current (1987) actual use level of 10,000 AUMs Forest-wide. This forest-wide stocking rate has since declined by almost 40%.

- Implement control strategies to reduce the spread of noxious weeds.

- Manage riparian areas to prevent adverse effects on channel stability and fish habitat.

- Design management activities to maintain soil productivity.

I considered the following decision criteria in arriving at a decision on the Waugh Gulch – Andrews Grazing Allotments Reauthorization:

1. How well did each alternative meet the purpose and need for action?
2. How did the alternatives address the environmental and social issues, including those raised through internal and public comments?

DECISION

After careful review of the Environmental Assessment (EA) for the Waugh Gulch – Andrews Allotments Reauthorization, and the comments received during the comment period, I have decided to select Alternative 2. This includes all the items described in the EA on pages 2-1 and 2-2.

The selected alternative reduces the current total permitted Animal Unit Months (AUMs) on the combined Andrews and Waugh Gulch Allotments by about 30% from 470 AUMs to 330 AUMs of use. The duration of grazing on the combined allotments, with the maximum stocking rate applied, would drop from the currently permitted uninterrupted duration of seventeen (17) weeks to approximately nine (9) weeks. This diminishes the amount of time livestock spend on the project area by about 50% in any year of grazing. Alternative 2 includes the following specific items:

- Reissue a Term Grazing Permit that combines the Andrews and Waugh Gulch Allotments. The combined Allotment will be known as the Waugh Gulch - Andrews Grazing Allotment.
- Reduce the maximum number of permitted livestock by approximately 30% from 470 Animal Unit Months (AUMs) to no more than 330 AUMs.
- Reduce the duration of grazing on the combined Allotments, with the maximum stocking rate applied, from the currently permitted uninterrupted duration of seventeen weeks to approximately nine weeks. This diminishes the time span of livestock presence on the project area by around 50%.
- Introduce periodic full season rest from domestic livestock grazing for each pasture in the project area.
- Use an adaptive management option to install several structures to improve livestock distribution and use patterns if effectiveness and/or implementation monitoring shows a pattern of non-compliance with Forest Plan objectives. The structural improvements may include:
    - the construction of up to two miles of fence, approximately 1.5 miles potentially in the West Fork Pasture and about 1.5 miles in the Waugh Pasture.
    - up to four new spring developments in the Waugh Pasture
    - a small corral facility in the Waugh Pasture.

- The selected alternative fulfills the requirements of the Rescission Bill and supports the goals, objectives, standards and guidelines of the Bitterroot Forest Plan.

- All aspects of Alternative 2 are consistent with Forest Plan management direction for all MAs (#s 1, 2, 3a, 3b, 5 and 8a) in the project area as well as the small proportion of the Allan Mountain Roadless Area that falls within the project area (Project File).

REASONS FOR THE DECISION

My decision was based on the environmental analysis conducted by an Interdisciplinary (ID) Team consisting of specialists in the following disciplines: hydrology; rangeland management; fisheries biology; soil science; wildlife biology; silviculture; recreation; botany; heritage resources; Forest Planning/NEPA; and ID Team leadership. My decision was based on the decision criteria described below:

1) *How well does the selected alternative meet the purpose and need for action?*

a. Alternative 2 responds to the 1995 Rescission Bill direction by completing the Environmental Assessment. The two other alternatives also fulfill the basic Rescission Bill requirements.

b. Alternative 2 employs cumulative annual monitoring and trend monitoring data in making stocking rate and livestock management prescription changes that differ from past approaches and will better achieve the long term desired conditions described in the 1987 Bitterroot Forest Plan than current management. It establishes a new stocking rate will move the allotments along an improving trend toward desired condition

2) *How did the selected alternative address the environmental and social issues?* The main issues influencing the selected alternative are: 1) fisheries / riparian / wetland condition and trend; 2) noxious/invasive weed spread / succession; 3) soil compaction and erosion; 4) conflict with commercial outfitter operations; and 5) social and economic effects on the spectrum of stakeholders. The following considerations explain how my decision is responsive to these issues:

a) *Issue 1 (riparian zone/wetlands impacts) and Issue 3 (soil compaction / erosion):* Monitoring data shows that Alternative 2 would produce the desired condition results within a realistic time period that is consistent with other National Forest grazing programs (Project File). Alternative 2 adequately addresses the comments and concerns received on the EA (see Appendix B of the DN)

b) Issue 2 (noxious weeds): Alternative 2 prescribes a reduction in stocking rate and duration of grazing that will lower (by about 30%) the risk of noxious weed spread in a number of ways (EA, p. 3.5-12) and will not contribute to an increase in noxious weed introductions or distribution.

c) Issue 4 (conflict with commercial big game hunting outfitter): The single commercial outfitter operating in the project area did not disagree with the proposed action in his comment on the EA (see Appendix B of the DN). Alternative 2 adequately balances the range of permitted uses in the project area and mitigates any impacts to the outfitter.

d) Issue 5 (social and economic effects): Alternative 2 balances the social and economic impacts to the variety of stakeholders with interests in the project area. The 30% stocking rate reduction will allow the permittee to meet Forest Plan standards more easily within the permitted season and will lower the level of uncertainty over the annual duration of grazing.

OTHER ALTERNATIVES CONSIDERED

A complete description of the alternatives considered in detail can be found in the EA starting on page 2-1. I have taken a hard look at the three alternatives and find that Alternative 2 best meets the purpose and need for the proposed action. The other alternatives considered "no action" or "no grazing" were not selected for the following reasons:

Alternative 1 (No Action): This alternative retains the current Term Grazing Permit authorized numbers, overall season and duration in individual pastures without any changes. The current allotment management plan direction on each allotment would not change.

I did not choose this alternative because it fails to enhance or respond to the latest resource condition assessments and because it does not move the allotments along an improving trend toward desired condition fast enough to satisfy the intent of the Purpose and Need.

Alternative 3 (No Grazing): Alternative 3 terminates all domestic livestock grazing in the project area and does not reissue any Term Grazing Permit. All interior allotment fences, water developments and cattleguards would be removed.

Alternative 3 would achieve desired conditions most rapidly but only by eliminating domestic livestock grazing. I did not select this alternative because eliminating grazing on the Waugh-Andrews Allotments does not meet the

Forest Plan objective to maintain grazing as part of the multiple use theme in the Forest Plan (EA p.1-6; Forest Plan p. II-3, II-5, II-6).

ALTERNATIVES NOT CONSIDERED IN DETAIL: The ID Team considered two additional alternatives but eliminated them from further study for the following reasons:

A) No Grazing with Intensive Soil and Vegetation Rehabilitation Treatments: This alternative duplicates the rehabilitation action of Alternative 3 (No Grazing) and does not meet Forest Plan objectives, II-3 & II-6, to maintain livestock grazing activity.

B) Combine Warm Springs Allotment with the Waugh Gulch and Andrews Allotments: Initial scoping mentioned combining the Waugh Gulch, Andrews and Warm Springs Allotments for convenience of administration. However, the Purpose and Need of this project focuses only on the Waugh Gulch and Andrews Allotments. The Warm Springs Allotment is grazed by the same permittee under a current NEPA decision and Allotment Management Plan. Allotment combinations constitute an administrative action that does not require a NEPA analysis or decision. Therefore there was no need to include the Warm Springs Allotment in this project decision.

PUBLIC INVOLVEMENT:

The Waugh Gulch and Andrews Allotments management proposals have been listed in the Bitterroot National Forest Quarterly NEPA schedule of Proposed Actions since January, 2003. 179 individuals, organizations, and government agencies, including the Nez Perce Tribe and the Confederated Salish and Kootenai Tribes, received scoping letters with a project area map and a description of the proposed action / purpose and need. We received three letters in response to the scoping solicitation. Two were from conservation organizations and one from an individual. The scoping comments did not generate any new alternatives.

In July, 2008, a legal advertisement announcing the availability of the Environmental Assessment (EA) and requesting comment was placed in the Ravalli Republic, the newspaper of record for the Bitterroot National Forest. In addition, hard copies of the EA were mailed to eight parties with a high likelihood of interest in the project. Two letters of comment were received (Project File). A synopsis of the comments and the Forest Service response to those comments are attached as Appendix B of this document.

The comments from the public and other agencies were used to identify a list of issues. I determined that the significant issues for this project were: 1) riparian zones / soils condition; 2) noxious weeds / invasive plants risks; 3) potential

conflict social conflict with a commercial big game outfitter in the area and 4) general social / economic effects to a variety of interested parties. To address these issues, the Forest Service developed the alternatives described above.

The permittee on the Waugh Gulch and Andrews Allotments participated in discussions about the alternatives and their effects throughout the process.

FINDING OF NO SIGNIFICANT IMPACT (FONSI):

I have reviewed the direct, indirect, and cumulative impacts of these actions as documented in this Decision Notice, the Environmental Assessment, and Project File. The setting of this proposal is in a localized area. I have considered the action's impacts on the ecosystem, local communities and county. The project does not have any large or lasting effect on society as a whole, the nation, or the state. Based on this review, I have determined there are no significant impacts on the physical, biological, or social portions of the human environment. This decision is consistent with the management direction, standards, and guidelines outlined in the 1987 Bitterroot Forest Plan, as amended.

Provisions of 40 CFR 1508.27 indicate project significance must be judged in terms of the project's context and intensity. Based on a review of the provisions, I determine it is not necessary to prepare an Environmental Impact Statement (EIS) for this project. My rationale includes:

I. **Context:** The effects of the proposed project are localized, with implications only for the analysis area evaluated by the combined resource team of resource specialists. Cumulative effects of past management, combined with the current proposal, and reasonably foreseeable future actions are displayed in the Waugh-Andrews Allotments EA and the project file for each resource. These effects were considered in my determination. Alternative 2, the selected alternative, is consistent with the goals and objectives outlined in the Bitterroot Forest Plan, Final EIS, and Record of Decision.

II. **Intensity:** This item refers to the severity of impact.

1. **My finding of no significant environmenal effects is not biased by the beneficial effects of the action.** I considered both beneficial and adverse impacts associated with the alternatives as presented in Chapter III of the EA and in the project file. These impacts are within the range of effects identified in the Forest Plan. The selected alternative does not rely on beneficial effects to balance potentially significant adverse effects.

I conclude that the specific and cumulative adverse effects of the selected alternative are not significant.

2. **I have concluded that there will be no significant effects on public health and safety.**
The proposed activities would not significantly affect public health and safety. Any construction of range improvements will pose no hazard to human health or safety.

3. **I have concluded that my decision will have no significant effects on unique resource characteristics of the geographic area** including historic or cultural resources, park lands, prime farms, wetlands, wild and scenic rivers, or ecologically critical areas. The cultural resource inventory review did not identify any concerns or sites that would be adversely affected by the selected alternative. A field inventory by the Forest Heritage Program Manager in 2007 did not identify any cultural concerns for the proposed range structural improvement sites (Project File). Mitigation measures for cultural resources are included in the EA (p.2-5) and Appendix A of this document. While all water resources in the analysis area watersheds are important, none are considered unique for the area (EA Section 3.3.5). Alternative 2 will comply with INFISH grazing standards and would improve attainment of the riparian management objectives (RMOs) (EA, p3.2-14). The project area does not contain any parkland, prime farmlands, wild and scenic rivers, or other ecologically critical areas. There will be no direct effect on wilderness characteristics since no activities are proposed near the Wilderness.

4. **I have concluded that the effects on the quality of the human environment are not likely to be highly controversial.** An analysis of the proposed action and alternatives has been conducted using the best information available and the latest methods of analyzing data by professionals in their respective disciplines. The effects of the proposed alternatives on the various resources (EA, Chapter 3) are not considered to be highly controversial by professionals, specialists and scientists from associated fields of forestry, fire management, wildlife biology and management, fisheries, and hydrology. The analysis did not indicate any highly controversial issues although one of the commenters disputed the data used to support stream / soil condition recovery rates and the risks to threatened and sensitive fish species (see Appendix B – Response to Comments; EA, pp 3.1-11; 3.2-11,12,13; 3.3-9 and the Project File-Fisheries BE). Monitoring of key sites in the project area will continue annually to determine compliance with Forest Plan standards and at checkpoint intervals to determine soils and stream condition trends (Project File).

5. **It is my conclusion that there are no unique or unusual characteristics in the area or project that have not been previously encountered or that would constitute an unknown risk to the human environment.** Scoping did not identify highly uncertain, unique or unknown risks. The effects analysis shows the effects are not uncertain, and do not involve unique or unknown risk. The technical analyses conducted for determinations of the impacts to the resources are supportable with use of accepted techniques, reliable data, and best available science.

6. **I have determined that the action is not likely to establish a precedent for future actions with significant effects**, because the proposed management practices are consistent with the Bitterroot Forest Plan and similar in nature to many other projects implemented on the Forest in the past decade. This action does not represent a decision in principle about a future consideration.

7. **I have determined that the effects of implementing Alternative 2 combined with the effects of past, other present, and reasonably foreseeable actions will not have any significant cumulative effects.** The selected alternative does not represent potential cumulative adverse impacts when considered in combination with other past actions. The Affected Environment in Chapter 3 discloses the existing condition incorporating past and current actions. Direct, indirect and cumulative effects of alternative implementation are also disclosed in Chapter 3 of the EA. Based on the information presented in the EA, there is no indication that this proposal will result in a cumulatively significant impact to the environment.

8. **I have determined that Alternative 2 will have no significant adverse effect on districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places and the action will not cause the loss or destruction of significant scientific, cultural, or historical resources.** A field survey and literature search (Project File) found no sites within the project area that would be affected by my decision. Compliance with Section 106 of the National Historic Preservation Act was fulfilled under the terms of the Region One / Montana SHPO Programmatic Agreement. Consultation with the Confederated Salish and Kootenai Tribes was completed in 2007 with no tribal cultural concerns identified (Project File).

9. **I have determined that the action will not adversely affect any endangered or threatened species (TES) or habitat that has been determined to be critical under the Endangered Species act of**

1973. The completed Biological Assessment for bull trout (September 2, 2008) determined that implementation of this project "may affect but is not likely to adversely affect" (NLAA) the specie. In addition to addressing threatened and endangered species, Biological Evaluations for sensitive wildlife, fish, and plant species, which could be affected by the proposed project were prepared and the results displayed in the EA (pp. 3.2- 13,14 and 3.6-8 thru 11).

10. **I have determined that the action will not violate Federal, State, and local laws or requirements for the protection of the environment.** The EA conforms to the applicable laws and regulations were considered in the EA (pages 3.1-1; 3.2-1; 3.3-1; 3.4-1; 3.5-1; 3.6-1; and 3.7-1) and the action is consistent with the Bitterroot Land and Resource Management Plan. The effects analysis for the resource areas considered the regulatory frameworks involved in the decision.

Based on the context and intensity of the project as discussed in the items above, I conclude there will be no significant direct, indirect, or cumulative impacts from implementing the Waugh-Andrews Grazing Allotments project as described for Alternative 2. Accordingly, I have determined that an Environmental Impact Statement is not needed for this project.

FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

I have reviewed this decision for compliance with laws, regulations, and policies. My decision to implement Alternative 2 is consistent with all laws, regulations, and policies.

- **National Environmental Policy Act (NEPA):** My decision is in full compliance with NEPA. The EA analyzes a reasonable and acceptable range of alternatives, including a "no action" alternative. It also discloses the expected impacts of each alternative and discusses the identified issues and concerns. This document describes the decision I have made and my rationale for making the decision.

- **National Forest Management Act (16 U.S.C. 1600 et seq.) and consistency with the Forest Plan:** The National Forest Management Act (NFMA) and accompanying regulations require several specific findings be documented at the project level. I reviewed Alternative 2 and found the following:

- **Consistency with the Forest Plan (16 U.S.C. 1604(i)):** This project is consistent with the Bitterroot Forest Plan. The Bitterroot Forest Plan

establishes management direction for the Bitterroot National Forest. This direction is described in forest-wide and management area specific standards. Designing and implementing projects consistent with this direction is the means to move the Forest towards the desired future condition as described in Chapter II of the Forest Plan. Management area and Forest-wide direction established sideboards for the development of alternatives to the proposed action while responding to public issues. After reviewing the EA, I find that this decision is consistent with the Forest Plan standards, goals, and objectives [see II-3, II-5, and II-6].

- **Endangered Species Act:** This project is in full compliance with the Endangered Species Act. In accordance with Section 7(c) of the Endangered Species Act, as amended, the Bitterroot Forest prepared a Biological Assessment addressing potential impacts to federally listed wildlife and fish species (Project File).
    - The determination for bull trout was *May Affect but is not Likely to Adversely Affect.* The U.S. Fish and Wildlife Service concurred with this determination in a letter dated September 23, 2008 including support for the determination of *No Effect* on bull trout critical habitat (Project File).
    - No effect is expected on the avian and terrestrial species listed as "sensitive" (EA, pp 3.6-14).

  There are no federally listed plant species that would be affected (EA. p.3.5-4). In addition to addressing T+E species, Biological Evaluations for sensitive wildlife, fish, and plant species, which could be affected by the proposed project were prepared and the results displayed in the EA on pages 3.2-14, 3.5-10, and 3.6-4.
- **Clean Water Act and Montana State Water Quality Standards.** Upon review of the Waugh-Andrews Allotments EA (EA, Chapters 2 and 3), I find that activities associated with Alternative 2 will comply with the Clean Water Act, CWA, and the state water quality standards. This project is consistent with Montana Impaired Waters (303(d)) programs. Alternative 2 is consistent with The Clean Water Act, it allows for water quality protection through state regulations and programs. Montana has established a Non-Point Source Program to address sediment and other types of non-point pollution. Compliance with this program is achieved by implementing economically and technically feasible conservation measures (often called Best Management Practices, or BMPs). The program does not require all sediment-producing activities to cease, but rather requires a good faith effort to implement the BMPs that are appropriate for the situation. For instance Camp Creek is not currently on the MTDEQ 2006 303(d) list for any kind of impairment. This is after the recent analysis for the Bitterroot Headwaters TMDL, which

considered all streams in the East and West Forks of the Bitterroot River above their confluence. Therefore there are no specific sediment reduction targets for Camp Creek. The Waugh - Andrews Alternative 2 nonetheless responds to the non-point source issues in the greater East Fork Bitterroot River watershed by reducing grazing impacts through implemention of specific best management practices for grazing including: a prohibition on season-long grazing in a pasture, limiting forage use, monitoring and a rest-rotation schedule. These practices are included as accepted conservation measures in the DNRC publication Best Management Practices for Grazing, Montana, 1999. This also makes the alternative consistent with **Montana State Code (75-5-703, Annotated 2001) provision 10 c) which states that " new or expanded nonpoint source activities affecting a listed water body may commence and continue provided those activities are conducted in accordance with reasonable land, soil, and water conservation practices"**. In Alternative 2, the allotment management plan allows for adaptive management by changing the season of use, or the number of livestock by altering annual operating plans issued each year. This allows for changes based upon vegetation conditions or weather for example, in order to prevent over use or damage to the resource. It requires seasonal forage use monitoring, and allows for removal of cattle should utilization limits be reached.

The Restoration Plan developed for the East Fork Bitterroot River in the Bitterroot Headwaters TMDL, recommends fencing riparian corridors, utilizing rest rotation grazing strategies to reduce the sediment load to the East Fork (TMDL, p.241, 2005). The fences built on Waugh Gulch since 2000 to protect streambanks would be maintained in the allotment and a rest rotation strategy are both part of Alternative 2.

- **Clean Air Act.** Upon review of the EA, Chapter 3, I find that Alternative 2 will comply with the Clean Air Act.

- **National Historic Preservation Act, American Indian Religious Freedom Act, and Native Graves Protection and Repatriation Act.** The Forest Heritage Program Manager has examined the selected alternative and the EA and secured full compliance with Section 106 of the national Historic Preservation Act (Project File).

- **Environmental Justice.** The Selected Alternative was assessed to determine whether it would disproportionately impact minority or low-income populations, in accordance with Executive Order 12898. No impacts to minority or low-income populations were identified during scoping or effects assessment.

ADMINISTRATIVE REVIEW AND APPEAL OPPORTUNITIES: This decision is subject to appeal pursuant to 36 CFR 215.11 and 36 CFR 251.

A written appeal must be submitted within 45 days following the publication date of the legal notice of this decision in the Ravalli Republic Newspaper of Hamilton, Montana. It is the responsibility of the appellant to ensure their appeal is received in a timely manner. The publication date of the legal notice of the decision in the newspaper of record is the exclusive means for calculating the time to file an appeal. Appellants should not rely on date or timeframe information provided by any other source.

The appeal must be filed with the Appeal Deciding Officer in writing. It is the appellant's responsibility to provide sufficient project or activity-specific evidence and rationale, focusing on the decision, to show why my decision should be reversed. At a minimum, the appeal must meet the content requirements of 36 CFR 215.14.

Paper appeals must be submitted to:

For Postal Delivery:	For Hand Delivery:
USDA Forest Service, Northern Region ATTN: Appeal Deciding Officer P.O. Box 7669 Missoula, MT 59807	USDA Forest Service, Northern Region ATTN: Appeal Deciding Officer 200 East Broadway Missoula, Montana 59802 Office Business Hours are from 7:30 AM to 4:00 PM

Appeals may be FAXed to (406)-329-3411.

For electronic appeals, the e-mail subject line should contain the name of the project being appealed. An automated response will confirm your electronic appeal has been received. Electronic appeals must be submitted in MS Word, Word Perfect, or Rich Text Format (RTF). Electronic appeals must be submitted to: appeals-northern-regional-office@fs.fed.us

If an appeal is received on this project there may be informal resolution meetings and/or conference calls between the Responsible Official and the appellant. These discussions would take place within 15 days after the closing date for filing an appeal. All such meetings are open to the public. If you are interested in attending any informal resolution discussions, please contact the

Responsible Official or monitor the following website for postings about current appeals in the Northern Region of the Forest Service:
http://www.fs.fed.us/r1/projects/appeal_index.shtml

IMPLEMENTATION DATE: If no appeals are filed within the 45-day time period, implementation of the decision may occur on, but not before, 5 business days from the close of the appeal filing period. When appeals are filed, implementation may occur on, but not before, the 15th business day following the date of the last appeal disposition.

CONTACT PERSON: Copies of the Waugh-Andrews Grazing Allotments Environmental Assessment and the Decision Notice/Finding of No Significant Impact may be requested by contacting the Sula Ranger District Office at (406) 777-5461 or ID Team Leader Gil Gale at (406) 821-2318.

For more information or questions concerning this decision or the appeal process, please contact Ruth Wooding, District Ranger, at 7338 Hwy 93 South, Sula, MT 59871 or (406) 821-3201 or Gil Gale, ID Team Leader at (406) 821-2318.

Ruth M. Wooding
District Ranger

February 2, 2009
Date

APPENDIX A – MANAGEMENT PRACTICES AND MITIGATION MEASURES

In addition to Forest Plan requirements, the ID Team identified project-specific mitigation measures that would be required under any action alternative. Mitigation measures are applied to reduce or avoid adverse effects resulting from management activities. These requirements, constraints, and mitigation measures are listed below:

Fisheries / Hydrology / Soils / Vegetation

- Avoid trailing cattle along stream channels during gathering or herd move operations. Use existing roads and established game, cattle or National Forest system upland trails.
- Develop livestock watering sources so as to reduce cattle impacts on riparian zones and streams
- Avoid cattle herd trailing across steep slopes with high erosion potential
- Adjust livestock distribution patterns and grazing duration annually as needed to comply with Forest Plan standards

Heritage Resources

- Structural improvements will require site approval by the Forest Heritage Specialist.
- If previously unknown heritage resources are encountered during the installation or removal of range improvements, the Forest Heritage Program Manager would be notified immediately.

Noxious Weeds / Invasive Plants

- Roadside shoulders and cut/fill slopes on the allotment, used as cattle distribution and trailing corridors, will continue to receive regular herbicide treatment to reduce weed seed transport potential.
- Continue biocontrol releases on the allotment to reduce spotted knapweed competition with native and desirable plant species.

Many of the mitigation measures would be achieved through provisions specified in the Allotment Management Plans (AMP), Annual Operating Instructions (AOI) and under the Terms and Conditions of the Term Grazing Permit (s). AMPs, AOIs and the Permit, which are referenced by permit/permittee number, are included in the Project File.

APPENDIX B: RESPONSE TO COMMENTS

Two comment letters were received concerning the Waugh Gulch and Andrews Grazing Allotments Environmental Analysis. Comments were received from Friends of the Bitter Root and one individual, Joe Ferraro of Indian Summer Outfitters, Inc. Comment letters can be found at the end of this document.

Friends of the Bitter Root

Comment (Page 1, line 34): *" long-term cumulative impacts (including grazing) on the Camp Creek and East Fork drainages have been so severe that it appears that Alternative 2 will not correct the existing problems in a reasonable time frame (if at all)"*

Response: Alternative 2 does not purport to correct all of the existing long term cumulative impacts found in the Camp Creek and east Fork drainages. Alternative 2 has sound basis in Forest Plan direction found on page II-3, II-5 and II-6. Alternative 2 is a progressive form of range management designed to yield improving trends in resource protection over time with rest/rotation, an approximate 50% decrease in the amount of time cattle are on the range and an approximate 30% reduction in the numbers of cattle grazing. This meets the goals of the Forest Plan to provide livestock forage where environmental quality can be protected.

The cumulative effects worksheet in the Expanded Fisheries Report (included in the project file) highlights five key factors (riparian livestock grazing; roads; timber harvest in riparian areas; fire; and introduced trout species) that have combined to negatively affect the fishery in the Camp Creek and East Fork drainages. As described in the worksheet, livestock grazing in the Andrews and Waugh Gulch allotments has contributed to those negative cumulative effects, primarily by increasing sediment inputs to fish habitat, widening stream channels, and increasing water temperatures (Expanded Fisheries Report, project file). The EA discloses that fish habitat is currently in good condition on National Forest land in the West Fork of Camp Creek, its unnamed tributaries and Waugh Creek, but still below its desired condition to varying degrees because of the legacy effects of years of riparian grazing (EA page 3.2-7). Habitat conditions are summarized in the EA on pages 3.2-8 to 3.2-10 and described in greater detail on a stream-by-stream basis in the Expanded Fisheries Report (project file).

We believe that Alternative 2 will correct existing problems within an approximate 12 year timeframe consistent with other documented riparian recovery rates (Project File). Monitoring indicates that fish

habitat conditions have improved considerably since rest-rotation grazing was initiated in 2002 (EA pages 3.2-9 and 3.2-11). This improving trend is also documented in several locations in the Fisheries Biological Assessment (project file, BA pages 3, 4 and 10). In light of the habitat improvements that have occurred since 2002 with rest-rotation grazing, we expect Alternative 2 to continue the improving trend in future years (EA page 3.2-11), and gradually reduce many of the habitat problems caused by Alternative 1, the previous grazing system. The Fisheries Biological Assessment predicts that Alternative 2 would help to restore the habitat indicators of water temperature, sediment, substrate embeddedness, pool frequency & quality, large pools, off-channel habitat, wetted width/max depth ratio, streambank condition, and riparian conservation area in bull trout habitat in the West Fork of Camp Creek (project file, BA pages 11-13). Finally, Alternative 2 complies with all of the Forest Plan/INFISH grazing standards and guidelines (EA page 3.2-14; project file, BA page 16).

Long-term, cumulative impacts to soils have created elevated detrimental soil conditions in the Camp Creek and East Fork drainages of the Waugh allotment (Waugh-Andrews Range Allotment EA – Soil Monitoring, letter dated August 26, 2006). These areas comprise 5% of the activity area (Waugh allotment) for soils analysis. Total detrimental soil disturbance for the Waugh allotment is 4% and is well within the Region 1 soil quality guidelines (FSM 2500 – R-1 Supplement No. 2500-99-1). It should be noted that natural recovery of compacted soils in the Camp Creek and East Fork drainages has occurred and is expected to continue for both Alternatives 2 and 3 (Waugh Gulch and Andrews Grazing Allotments, pg. 3-14). Continual natural recovery of soils in the impacted drainages will lead to a net improvement in soil quality within a short timeframe (less than 12 years). This net improvement in soil productivity for Alternatives 2 and 3 meets the intent of the Region 1 soil quality guidelines (FSM 2500 – R-1 Supplement No. 2500-99-1).

Watershed existing conditions are discussed on pages 3.3-5 through 3.3-8 of the EA. Of 31 miles of stream within the allotment area, about 15% is accessible to livestock. These areas are accessible due to topography and vegetative conditions. Livestock are not causing poor channel conditions in these areas. Stream surveys conducted on accessible reaches of Waugh Gulch found that substrate composition is similar to reference reaches (EA, page 3.3-6). On the West Fork of Camp Creek, there was only 1% trampling on the survey reach and most parameters were similar to reference conditions (EA, page 3.3-7). On the West Fork of Camp Creek above it's confluence with the East Fork of Camp Creek, there are few areas where livestock can access the stream due to large amounts of downfall (EA, page 3.3-7). Andrews Creek on National Forest is accessible to livestock only at road crossings due to topography; a

survey conducted in 1990 and in 2003 (EA p.3.2-4 and 3.2-10; WAT-PF) did not document any livestock effects. Livestock access Maynard Creek at headwater road crossings and surveys conducted in 2003 found no evidence of past livestock use (EA, page 3.3-7).

The tributary that flows through Indian Tree Campground saw the most livestock use due to the low gradient and limited ground vegetation. Site visits occurred in 2002 and 2003, after the grazing system was changed. The results of these visits showed livestock use was occurring at a lesser amount than prior to grazing system change (EA, page 3.3-7; Project File –Wat-18).

Monitoring finds that conditions have improved following the initiation of the rest rotation grazing system in 2002 (PF-WAT-21). Monitoring of allotment conditions in 2008 found that trampling is non-existent in the fenced reaches of Waugh Gulch and other previously trampled reaches have healed. At all monitored streams, substrate composition has changed as a result of high flows in the spring of 2008; however, stream bank and vegetative conditions have improved in the time period between 2002, when the change in grazing systems occurred, and 2008.

Alternative 2 will have a shorter length of time livestock are allowed on the allotment than prior to 2000. Monitoring shows this leads to less bank trampling and fewer riparian impacts (EA, page 3.2-11, PF-WAT-21).

Comment (Page 1, line 36): *"The 'adaptive management proposed in Alternative 2 (p. 2-2) contains 'options' that may or may not ever be carried out. At any rate they would not be even considered for at least five years (p.2-3)."*

Response: The Forest routinely meet its' targets for range allotment inspections and annual monitoring (Bitterroot Forest Monitoring Report – Project File). Annual Operating Instructions (AOIs) and results and problems from the previous season are reviewed at pre-grazing meetings with permittees. As needed, the AOIs and meetings prescribe adjustments in stocking, timing, duration, etc. similar to the adaptive management options described in the EA, Table 2-1. Range specialists then monitor the implementation of the prescription changes in their regular allotment inspections and periodic interactions/field work with the permittees. Hydrology and fisheries specialists also perform annual monitoring of domestic livestock and other impacts to key indicator stream channels and segments.

Comment (Page 1, line 34): *"....there are approximately five major decisions where the environmentally desirable actions stipulated were then never carried out. It also raises a significant concern whether or not conditions stated in the EA would actually ever be accomplished." "....If all the BAR stipulated improvements had been completed in a timely manner, long-term sediment input would already have been reduced by about 14% (EA, p. 3.3"11)."*

Response: The response to the item immediately above, concerning adaptive management, serves to answer this comment as well.

Comment (Page 1, line 52): *"roading and logging occurred in 1960s and significantly impacted the fisheries and watersheds cumulatively ..."*

Response: Alternative 2 reduces the time that livestock would use the allotment compared to Alternative 1 (what was allowed under the previous plan) and would lead to improvements in channel condition (EA, page 3.3-9). Recent monitoring (PF-WAT-21; EA, page 3.2-11) shows that Alternative 2 will result in improvements in conditions related to grazing. The intensity and frequency of land management activities contributing to watershed cumulative effects have also changed since the 1960's. The difference is that in 2008, BMPs and INFISH require buffers along stream channels and require mitigation that has become standard operating procedures on timber sales and road construction. For example, tractor skidders are not allowed to operate on slopes over 35 percent, over snow tractor skidding and skyline yarding with at least one end suspended is common. Monitoring of BMP application and effectiveness found that little ground disturbance occurred and no off-site erosion or sediment contribution resulted from post-2000 timber harvest (EA, page 3.3-10, USDA Forest Service 2002, 2003, 2004, 2005, 2006).

The effect of other projects that have occurred in the recent past and might occur in the future would be less than that of "similar" projects implemented in 1960 through 1990 before BMPs and INFISH. Today, mitigation, and often watershed improvements, is also included as a component of projects. Since 1995, several projects resulted in the watershed improvements in or near the Waugh-Andrews Allotment. The Camp Creek Watershed Restoration Decision Memo (EA, page 3.3-14, USDA, Forest Service, 1995) obliterated 8.5 miles of road and closed 6.6 miles of "year long" road in the Camp Creek Watershed. The Camp Reimel EA (EA, page 3.3-14, USDA Forest Service, 1997) also closed 2.1 miles of "year long" roads and obliterated 5.1 miles of road. Reimel EA also resulted in fencing an aspen stand to facilitate sprouting and growth and fencing of the Waugh Gulch channel to prevent livestock access.

The Burned Area Recovery Project (United States Forest Service 2001) resulted in restoration activities in and near the allotment, although not all of them have been completed due to budget constraints. Included in the completed list are three culvert replacements on FR 729 and FR 8112, all within the allotment, completed in 2003 (EA, page 3.3-11). The culvert on FR 13340 on the tributary near Indian Trees Campground was removed in 2006 to eliminate the culvert plugging which would result in washing out the crossing and the road was decompacted for several hundred yards. Monitoring has shown that this location as has seen some adjustments due to the high flows in 2008 but vegetation recovery is going well and conditions are stabilizing (PF-WAT-22). Portions of FR 728, the Andrews Creek road have been graveled to stabilize the road surface and prevent erosion. Culverts were replaced on FR 727, the Reimel Creek road (adjacent to Camp Creek) to allow for 100 year flows and fish passage and sections of the road immediately adjacent to the stream have either been moved further away from the stream or graveled to reduce sediment contributions to Reimel Creek. Please see PF-WAT-23 for a list of watershed mitigation associated with the Burned Area Recovery Project and its completion status. In the Middle East Fork Project (United States Forest Service, 2005), all watershed mitigation has been completed as of July 2008 when 73250 was recontoured and put into storage.

In summary, watershed and fisheries restoration is occurring (EA, page 3.3-14) in the Camp Creek watershed and elsewhere on the forest as quickly as funding can be secured to accomplish it.

Monitoring data from 2005 on the Beaverhead-Deerlodge National Forest shows that standard hydrologic sampling techniques can detect trend changes in stream morphology under active livestock management scenarios in as little as two years (Project File). Improving trend determinations in stream functional status surfaced at seven to thirteen year intervals on several ranger districts. A number of these sites moved from non-functioning or functioning-at-risk status to fully functioning status (desired condition) within that time period. In any case, the twelve year interval for recovery that is cited in the EA for Alternative 2 is an estimate used primarily to provide a comparison with the other alternatives. For example, the recovery time period estimates show that we would expect a high level of improvement in stream condition to take twice as long under Alternative 1 (No Action) than under Alternative 2 (Selected Alternative).

Comment (Page 2, line 6): *"The EA appears to suggest that loss of the availability of these two allotments might cause the permittee to not have a viable operation and to possibly end up subdividing the base property, (p. 3.7-5). Unfortunately, ample Valley history demonstrates that subdividing*

is much more profitable than agricultural endeavors and the decision whether to subdivide will be made by the owner based on personal overall economic desires."

Response: The alternative that eliminates grazing (Alt 3) might drastically reduce the ability of the permittee to produce the hay crop necessary to overwinter his herd. The National Forest rangelands provide the bulk of his summer pasture needs and allow the time needed to grow hay on his irrigated pastures (EA, p3.7-5). While securing alternative private land summer pasture through land purchase or lease is always an option for the permittee, local economic factors, such as real estate values and pasture lease fees, are key factors in his choice of options.

The analysis does not make a prediction, in this case, about the exact effect that the loss of the national forest permit will have on the family ranch operation. The narrative simply points out that the availability of public land grazing is one factor among several that will influence the permittee's long term decision about whether to continue ranching or to choose another economic course of action. The analysis does not describe a precise economic cause and effect relationship between the potential loss of the grazing permit and the rancher's potential decision to subdivide his property. The analysis only reports that the allotment grazing capacity plays an important role in the permittee's view about the viability of his operation.

Comment (Page 2, line 17): *"...grazing that is adversely affecting the already degraded riparian areas and fisheries is being heavily subsidized by the taxpayers."*

Response: The documented improving trend in riparian and fish habitat condition is discussed in the Fisheries Biological Assessment, pp 3, 4 and 10 and the EA, pp 3.2-9 and 3.2-11.

Administrative and management costs exceed grazing fee revenue due to national policy and law. For example, grazing fees are calculated in accordance with Executive Order 12548 (February, 1986) that established a 1) minimum dollar amount and 2) a formula that uses indices for beef cattle prices, forage values and production costs to calculate the fee for each new year. United States Forest Service policy (FS Manual direction) and enabling legislation, such as the Multiple Use Sustained Yield Act (1960), the Public Rangelands Improvement Act (1978) and other acts, do not direct rangeland operations to keep administrative costs below grazing fee revenues.

Comment (Page 2, line 20): *"... the economic value of big game hunting versus grazing is much greater too, yet the EA points out that this grazing proposal will "conflict" with an outfitter's permitted operations on approximately 30% of the allotment (p. 2-9)"*

Response: The summary analysis of effects on the local outfitter (EA - Ch 2, p. 2-9) identifies a "potential" conflict with livestock presence on up to 30% of the overlapping use sites. This limited potential would occur for only two weeks out of the ten week hunting season used by the outfitter. This leaves an overwhelming majority of the acreage on the allotment, including 70% of the overlapping use sites, free of any potential for livestock to interfere with the commercial outfitter opportunity. The Bitterroot Forest Plan does not present any standards or objectives for the Management Areas (MAs) in the project area that address potential outfitter – permitted livestock social conflicts. The EA (p 3.4-4) concludes that a reduction in encounters between recreationists and livestock will occur under Alternative 2 during summer and fall.

Comment (Page 2, line 24): *"The costs of ground-based and aerial herbicide spraying in the Waugh Allotment further add to the grazing subsidy (p. 2-7; 3.1-13)."*

Response: Noxious weed treatments in the project area focus primarily on roads and trails. No large, forage producing polygons on the allotment are scheduled for chemical treatment.

Comment (Page 2, line 25): *"Cross-country OHV use was prohibited by the 2001 OHV Amendment (p. 3.1-14), yet the permittee is allowed to ride OHVs cross-country (p. 3.4-2) thereby causing additional weed spread and potentially causing user-created two-track trails that other OHV riders may begin utilizing after they become evident on-the-ground."*

Response: See EA, page 3.4-2: Item 4 authorizes OHV travel by the permittee in the administration of his federal lease permit in exception to the 2001 OHV Amendment p. 3.1-14). On the Waugh-Andrews Allotments, the possibilities for cross-country OHV use by the permittee are extremely limited due to the steep terrain. OHV options are restricted largely to established roads and trails. The District Ranger retains the authority to grant or deny site-specific exceptions to the Region 1 EIS direction for the permittee after reviewing the request.

Comment (Page 2, line 30): *"The EA presents that Alternative 3 would 'cost' the FS approximately $10,000 to remove the riparian fencing and water troughs (p. 3.7-4). We do see any 'need' to do such removals in the near future and believe it distorts the benefits/cost ratio between the alternatives presented."*

Response: The removal of obsolete or unneeded range structures is standard practice for several reasons. Unmaintained fences present entanglement hazards to wild ungulates that can result in severe injury or death. These also can pose a danger to recreationists, hunters and recreational stock. Unmaintained escape ramps turn water troughs into fatal traps for birds and small mammals. In addition, deteriorating structures become an eyesore and detract from the visual quality of the landscape.

The maintenance responsibility for most range management structures on grazing allotments falls on the permittee. Transferring the maintenance burden to the permittee allows the Forest Service to reduce operational costs and narrow the effective difference between the lower National Forest permit charge and the higher private land forage rates. With the elimination of grazing in Alternative 3, the Forest would have to assume maintenance of any range structures that served some residual function. However, in most cases, the only useful purpose of the structures is to improve livestock distribution and management. Without domestic livestock on the allotment and without a resource reason for the Forest to continue maintenance, the structures would rapidly deteriorate.

Comment (Page 2, line 36): *"Approximately 4% of the Waugh Allotment has detrimental soil conditions (p. 3.1-14)"*

Response: Existing soil conditions within the Waugh Gulch allotment are within the Region 1 soil quality guidelines (Waugh Gulch and Andrews Grazing Allotments, pg. 3.1-14). Soils in gentle terrain immediately adjacent to Waugh Creek exceed the Region 1 soil quality guidelines (Waugh Gulch and Andrews Grazing Allotments, pg. 3.1-10); however, the overall activity area (grazing allotment) is well within the Region 1 soil quality guidelines. Natural processes have already begun to ameliorate compaction concerns in the vicinity of Waugh Creek (Waugh Gulch and Andrews Grazing Allotments, pg. 3.1-10). Natural recovery of compacted soils in these areas is expected for both Alternatives 2 and 3 (Waugh Gulch and Andrews Grazing Allotments, pg. 3-14), which will lead to a net improvement in soil productivity in the areas of more highly impacted soils. These action alternatives meet the intent of the Region 1 soil quality guidelines (FSM 2500 – R-1 Supplement No. 2500-99-1) for the activity area (grazing allotments) and in the areas with increased soil impacts.

Comment (Page 2, line 39): *"Under Alt 2, sediment inputs would remain at current levels, while Alt 3 would reduce sediment and lead to improvements."*

Response: Alternative 2 meets the goals of the Forest Plan to provide livestock forage where environmental quality can be protected. The EA discusses on page 3.3-9 improvements to riparian and wetland conditions from Alternative 2 because of the reduction in livestock numbers using the allotment and the amount of the time they would actually be on the allotment. There would be less bank trampling, fewer unstable banks, and time for riparian vegetation to recover and less production of sediment. On page 3.3-15, Alternative 2 would result in sediment reduction between that of Alternatives 1 and 3 and localized improvements in channel condition. Combined with sediment produced in the cumulative effects list, improvements in downstream reaches would be greater than Alternative 1 but less than Alternative 3.

Alternative 3 could lead to improvements at a quicker rate that Alternative 2 because livestock are completely eliminated from the allotment (EA, page 3.3-9). Alternative 2 would also lead to improvements and monitoring has shown that conditions have improved since 2002 when the change in grazing system was implemented (EA, page 3.3-9, 3.2-9, PF-WAT-21, and Forest Plan Monitoring Reports USDA Forest Service, 2003, 2004, 2005, 2006). The change in grazing system is similar to what would occur if Alternative 2 were chosen. It is expected that improvements would continue using a similar grazing system.

It states in the EA that Alternative 2 results in less bank trampling, less production of sediment and fewer unstable stream banks (EA, page 3.3-9) and in combination with the projects on the cumulative effects list would result in sediment source reduction (EA, page 3.3-15) compared to Alternative 1. At the end of the Hydrology report, the supporting information is not summarized correctly as on page 3.3-16 of the EA it states that sediment sources would remain at current levels with Alternative 2, when previously a reduction in sediment and sediment sources is reported. It also states on page 3.3-15 and 16 that there should not be further degradation in the East Fork Bitterroot River from the combination of Alternative 2 or Alternative 3 and activities on the cumulative effects list. Recent monitoring has been able to document the benefit of a grazing strategy similar to Alternative 2. Conditions have already improved since 2002 when the grazing system changed. The amount of trampled banks has decreased, what was trampled has healed and shrubs and vegetation along the stream banks are growing vigorously (PF-WAT-21, EA, 3.2-9).

Comment (Page 2, line 47-49): *"There are cumulative effects.....that adversely impact the fisheries and riparian areas. It appears Alternative 2 does not comply with the CWA..."*

Response: Cumulative effects to fisheries and riparian areas are addressed in detail on page 15 and 26 in this appendix b "response to comments".

Alternative 2 does comply with the Clean Water Act, CWA. The Clean Water Act allows for water quality protection through state regulations and programs. Montana has developed a Non-Point Source Program (NPS) to address sediment and other types of pollution. Compliance with this program is achieved by implementing economically and technically feasible conservation measures or "best management practices (BMPs)". We assume that the commenter is concerned about the effects of sediment on water quality in this case. The NPS Program does not require all sediment-producing activities to cease but does require a good faith effort to implement the BMPs that are appropriate for the situation.

Alternative 2 complies with Clean Water Act, including Sections 303, Section 313 and Section 319. Section 303 charges states with the responsibility to develop and review water quality standards. Section 313 mandates all federal agencies to control water pollution under state and federal requirements. Section 319 requires federal agencies to be consistent in their actions with state Non-Point Source Programs. **Specifically, compliance with the Clean Water Act is demonstrated in this decision through the following examples:**

I. Alternative 2 is consistent with Montana State Code (75-5-703), (Annotated 2001), provision 10c, which states that "new or expanded non-point source activities affecting a listed water body may commence and continue provided those activities are conducted in accordance with reasonable land, soil and water conservation practices". The Montana Best Management Grazing Practices guidelines published by the Montana Department of Natural Resources and Conservation, DNRC, in 1999 (PF-WAT-13) lists several practices recommended for livestock grazing operations that are included in Alternative 2 of the Waugh-Andrews Decision (DN/FONSI) and that constitute an improvement over previous grazing practices on the allotments. These include:

    a) Managing the frequency, duration, intensity and season of use. Alternative 2 reduces the number of livestock, the

duration of grazing and introduces periodic rest and deferment to the schedule.
b) Managing livestock to protect streambanks. Alternative 2 includes the option of constructing riparian exclosure and drift fences to control livestock impacts to streams and riparian zones.
c) Managing grazing to maintain or restore the Allotments. Alternative 2 is expected to improve key site conditions by rest-rotation, reduced numbers and shorter grazing duration.
d) Developing a monitoring strategy. Alternative 2 includes a monitoring strategy that tracks annual impacts and long term trends in stream and upland condition (EA p.2-5, 6 and Project File)

II. Sediment sources are expected to decrease under Alternative 2 as supported by recent monitoring showing that conditions have improved since 2002 when trial changes to the grazing system, (similar to Alternative 2), were initiated. The reduction of sediment sources and sediment contributions would be due to a reduction in the amount of trampled banks, and recovery of trampled banks as documented by recent monitoring (PF-WAT-21, EA 3.2-9).

III. This project area is included in the Water Quality Restoration Plan for the Bitterroot Headwaters Planning Area (Montana Dept. Environmental Quality, 2005). While Camp Creek is a tributary to the East Fork Bitterroot River, it is not listed as an impaired stream (Section 303, CWA) on the MTDEQ 2006 303(d). West Fork Camp Creek is a tributary of Camp Creek and a headwater stream to the East Fork Bitterroot River. The Waugh - Andrews Alternative 2 nonetheless responds to the non-point source issues in the greater East Fork Bitterroot River watershed by reducing grazing impacts through implemention of specific best management practices for grazing including: a prohibition on season-long grazing in a pasture, limiting forage use, monitoring and a rest-rotation schedule. These practices are included as accepted conservation measures in the DNRC publication Best Management Practices for Grazing, Montana, 1999. This also makes the alternative consistent with **Montana State Code (75-5-703, Annotated 2001) provision 10 c) which states that " new or expanded nonpoint source activities affecting a listed water body may commence and continue provided those activities are conducted in accordance with reasonable land, soil, and water conservation practices"**

IV. In Alternative 2, the allotment management plan allows for adaptive management by changing the season of use, or the number of livestock, by altering annual operating instructions issued each year. This allows for changes based upon vegetation conditions or weather for example, in order to prevent over use or damage to the resource. It requires seasonal forage use monitoring, and allows for removal of cattle should utilization limits be reached.

V. The Restoration Plan developed for the East Fork Bitterroot River in the Bitterroot Headwaters TMDL, recommends fencing riparian corridors, utilizing rest rotation grazing strategies to reduce the sediment load to the East Fork (TMDL, p.241, 2005). In the Restoration Plan (page 235) priority restoration activities include: Continuing riparian management and monitoring in area impacted by livestock use; utilizing rest-rotation systems; and fencing. Alternative 2 complies with requirement of the Restoration Plan by reviewing livestock use and allowing for monitoring of conditions annually on streams within the allotment area, installing rest-rotation grazing and including the option to construct riparian exclosure and drift fences. The fences built on Waugh Gulch since 2000 to protect streambanks would be maintained in the allotment and a rest rotation strategy are both part of Alternative 2.

Comment (Page 3, line 3): *"it appears to us there is a significant possibility this (West Fork Camp Creek bull trout) population is currently at high risk of extirpation."*

Response: The Biological Assessment and the letter of concurrence from U.S. Fish and Wildlife Service (Project File) support the position that Alternative 2 will not contribute to the extirpation of the bull trout in the Camp Creek drainage. Pages 3-4 of the Fisheries Biological Assessment (project file) describe the current status and probability of persistence of the bull trout population in the Camp Creek drainage. At the bottom of page 3, the Fisheries Biological Assessment states "there are probably < 50 adult bull trout in the Camp Creek drainage, most of them occur in Camp Creek on private land, and most are believed to be resident fish". This statement was taken from a document called the Bitterroot River Section 7 Watershed Baseline (USDA Forest Service, 2000), which was completed by Forest fisheries biologists for the U.S. Fish and Wildlife Service shortly after the bull trout was listed, and describes the status of all of the bull trout populations in the Bitterroot River basin. Page 3 of the Fisheries Biological Assessment also states that "bull trout are incidental and rare in the lower 1.5 miles of the West Fork of Camp Creek". This is consistent with the project scale description of the bull

trout population given on page 3.2-2 of the EA. Finally, the top of page 4 in the Fisheries Biological Assessment, (project file), states that "brook trout compete with bull trout for habitat and food, and probably pose a high risk to the persistence of bull trout in the Camp Creek drainage".

Comment (Page 3, line 5): *"there is an 'effects determination' presented for westslope cutthroat trout (WCT) (page 3.2-13), but we could not find any such determination for bull trout."*

Response: The 'effects determination' for bull trout is found in the Fisheries Biological Assessment, which is a stand-alone document written and placed in the project file after a preferred alternative is selected. Endangered Species Act determinations for listed fish species, by practice, are usually not included in NEPA documents. By regulation (50 CFR Part 402 and FSM 2670 policy), the Forest must prepare a stand-alone Biological Assessment that addresses the direct, indirect, and cumulative effects of the selected alternative. The Biological Assessment does not analyze all of the alternatives, only the selected alternative. This process is understandably confusing to people outside the agencies. The "Biological Assessment and Consultation" paragraph on the bottom of page 3 of the Expanded Fisheries Report (project file) summarizes the Section 7 consultation process. In this project, the effects determination for bull trout is "may affect, not likely to adversely affect", and that determination and its supporting rationale can be found on pages 9-11 and 17 of the Fisheries Biological Assessment (project file). The U.S. Fish and Wildlife Service issued a "letter of concurrence" on September 23, 2008 that supports the Biological Assessment determination regarding bull trout for Alternative 2. The letter states, "The Service (FWS) has reviewed the BA and concurs with the Forest Service's (Forest) determination that the proposed project is not likely to adversely affect the threatened bull trout and acknowledges your no effect determination for bull trout critical habitat."

By Regional directive (2670/1950, letter dated August 17, 1995), the Forest is directed to incorporate its Biological Evaluations for sensitive species in its NEPA documents. This process is described near the top of page 4 of the Expanded Fisheries Report (project file). Pages 3.2-13 and 3.2-14 of the EA contain the Biological Evaluation for westslope cutthroat trout, the only sensitive fish species affected by this project.

Comment (Page 3, line 11): *"Alternative 2, at best, would only 'maintain' the diminished watershed and native fish populations at their current existing levels, and therefore, would not fully comply with those (NFMA and ESA) laws. "*

Response: Alternative 2 will improve the fishery. A rest-rotation system similar to that of Alternative 2 has been used on the allotments since 2002 (EA page 3.2-9). Since 2002, our monitoring has documented considerable improvements in fish habitat conditions as a result of the change in grazing systems (EA pages 3.2-9 to 3.2-11; project file, BA pages 3, 4 and 10). We expect a similar improving trend to continue with Alternative 2 (EA pages 3.2-11; project file, BA pages 8, 10-13). As for Alternative 2 not complying with the ESA, it is the responsibility of the U.S. Fish and Wildlife Service is to review projects and decide whether or not they are consistent with the law. They do this through the Section 7 consultation process. Alternative 2 is consistent with all of our Forest Plan/INFISH standards and guidelines. This is documented in the EA (EA page 3.2-14) and Fisheries Biological Assessment (project file, BA page 16)

Comment (Page 3, line 15): *"It appears the potential for direct and indirect adverse cumulative environmental impacts resulting from Alternative 2 are highly significant and would be of long duration. The potential for extirpation or loss of viability of the native fisheries alone should require that an EIS be prepared."*

Response: : We expect the fishery to experience positive cumulative effects due to habitat improvement as a result of Alternative 2 (EA pages 3.2-12 to 3.2-13; project file, BA page 11). Our rationale for this expectation is described in the cumulative effects worksheet portion of the Expanded Fisheries Report (project file, pages 13-29). We expect Alternative 2 to continue the improving habitat trend that has been observed since 2002 (EA pages 3.2-11; project file, BA pages 8, 10-13).

We do not expect Alternative 2 to increase the potential for extirpation or result in loss of viability of the native fishery. Because it would produce improvements in habitat, we believe that Alternative 2 will maintain the viability of the bull trout population (project file, BA page 9), and strengthen the viability of the westslope cutthroat trout population in the Camp Creek drainage (EA pages 3.2-13 to 3.2-14). The Fisheries Biological Assessment (Page 9, BA, project file) discusses bull trout viability and the risk of extirpation in depth. We believe that the current condition of bull trout habitat in the West Fork of Camp Creek is capable of maintaining viability and that implementation of Alternative 2 will lead to habitat improvement over time (project file, BA pages 9, 10-13). Competition from brook trout poses the greatest threat to bull trout viability (project file, BA page 9; EA page 3.2-2). Our monitoring shows that westslope cutthroat trout numbers have remained strong and brook trout numbers have remained low in the West Fork of Camp Creek under current management (EA pages 3.2-2 to 3.2-3; project file, BA page 9).

Bull trout have been incidental in the lower end of the West Fork of Camp Creek since monitoring began in the early 1990's (EA page 3.2-2; project file, BA page 3). The West Fork contains the uppermost limit of bull trout presence in the Camp Creek drainage, with the vast majority of the suitable bull trout habitat in the Camp Creek drainage occurring downstream of private lands. The Fisheries Biological Assessment concludes that "...the positive changes brought about by Alternative 2 in the West Fork of Camp Creek are unlikely to result in measurable improvements in bull trout habitat in Camp Creek and the East Fork Bitterroot River because those are large stream systems that are influenced by many other factors...", and "...the number of bull trout in Camp Creek and the East Fork Bitterroot River is unlikely to increase as a result of Alternative 2...because direct habitat improvements would largely be restricted to the West Fork of Camp Creek...improvements in water quality would be too small to detect in Camp Creek and the East Fork, ...and other factors such as competitive interactions with non-native trout are likely to mask and override any small reductions in sediment coming off the allotments" (project file, BA page 10).

Watershed direct and indirect effects of Alternative 2 include improvements to riparian and wetland conditions because of a change in livestock period of use. Reduction in the time livestock are allowed on the allotment should lead to improvement due to less bank trampling, more stable streambanks and time for vegetation and bank stability to improve while livestock are not on the allotment. The addition of water developments should also reduce pressure on wetland areas by providing water away from wetlands and streams. Alternative 2 provides for localized improvements in channel conditions (EA, Page 3.3-15)

In conclusion I disagree with your assessment that there is potential for Alternative 2 to result in extirpation or loss of viability of the native fisheries and I disagree therefore with your statement that this project calls for an Environmental Impact Statement. I believe that the Forest Service analysis and process, in reaching the selection of Alternative 2 and the finding of No Significant Impact, is appropriate. I have reviewed the direct, indirect, and cumulative impacts of these actions as documented in this Decision Notice, the Environmental Assessment, and Project File. The setting of this proposal is in a localized area. I have considered the action's impacts on the ecosystem, local communities and county. The project does not have any large or lasting effect on society as a whole, the nation, or the state. Based on this review, I have determined there are no significant impacts on the physical, biological, or social portions of the human environment. This decision is consistent with the management direction, standards, and guidelines outlined in the 1987 Bitterroot Forest Plan, as amended.

Joe Ferraro, Indian Summer Outfitters, Inc

Comment (Line 5): *"We have no issues with the proposed action, however, the enforcement of the regulations are a concern"*

Response: Thank you for your comment. Your concerns about enforcement are addressed in the next comment response.

Comment (Line 7): *"In the past, grazing dates were to end on August 15th to let the game settle down and to allow time for removal of stragglers in time to avoid conflicts with our fall archer hunters beginning on the first Saturday of September. Not only have there been more than the 10% allowable but they have been grazing the allotment well beyond the scheduled use days."*

Response: Your discussions with the Forest Range Specialist referred to grazing dates that involve the Warm Springs Allotment not the Waugh-Andrews Allotments. Your Warm Springs Allotment concerns are beyond the scope of this decision and can be dealt with separately under standard allotment administration protocols and through further discussions of any of your concerns. In any case, your comment is addressed as follows: Forest range monitoring on the Warm Springs Allotment for recent years shows that the AUM stocking rates and the forage utilization percentages have stayed well within the prescribed levels. In addition, the Warm Springs Allotment was completely rested for the last two years.

Comment (Line 12): *"The other issue was not mentioned in the Assessment. It is concerning the barbed wire fence along the ridge at the intersection of the 177 and 178 trails.....the fence was down....and is a hazard...."*

Response: The fence you reference is assigned to the Warm Springs Allotment. Regardless, the fence wire was rolled up and removed in 2008 because it was no longer deemed useful. It no longer poses any hazard to wildlife or recreationists.

Friends of the Bitter Root Letter

To: Ranger Ruth Wooding
Sula Ranger District
7338 Highway 93 South
Sula, Montana 59871

From: Friends of the Bitter Root
P.O. Box 442
Hamilton, Montana 59840

Date: August 1, 2008

Subject: Comments re Waugh Gulch and Andrews Grazing Allotment Environmental Assessment

Dear Ranger Wooding:
Friends of the Bitter Root (FOB) have been involved for many years with the Waugh Gulch, Camp Creek, Andrews Creek, and East Fork areas. We believe that the proposed action (Alternative 2) described in the Waugh Gulch and Andrews Grazing Allotment EA will not adequately protect the adversely affected watersheds and fisheries.

Over the years the Sula District has installed exclosures along portions of Waugh Gulch which have demonstrated the dramatic improvement possible in the watershed and fisheries conditions that are attainable when grazing is excluded.

The Alternative 2 proposes to reduce existing AUMs by about 30% (470 to 330) and reduce the duration of grazing from about 17 weeks to about 9 weeks. Unfortunately, the long-term cumulative impacts (including grazing) on the Camp Creek and East Fork drainages have been so severe that it appears that Alternative 2 will not correct the existing problems in a reasonable time frame (if at all). The 'adaptive management proposed in Alternative 2 (p. 2-2) contains 'options that mayor may not ever be carried out. At any rate they would not be even considered for at least five years (p.2-3).

A BNF Line Officer has made the statement (in writing) that 'a FS Decision is not a commitment'. This concerns us because we believe there are approximately five major decisions where the environmentally desirable actions stipulated were then never carried out. It also raises a significant concern whether or not conditions stated in the EA would actually ever be accomplished.

For one example, the 2001 BAR Settlement Agreement made the decision to gravel, upgrade and/or obliterate some roads and replace culverts in specific areas within the proposed allotment area. This has been only partially done so far (but the BAR timber sales have been completed) and they still might be done in the future - if funds become available (seven or more years after the Court-ordered Settlement. If all the BAR stipulated improvements had been completed in a timely manner, long-term sediment input would already have been reduced by about 14% (EA, p. 3.3"11).
Alternative 2 claims the grazing changes and adaptive management "would take up to 12 years" to reach desired [riparian/fisheries] conditions (EA p. 2-8). Considering that the main roading and logging occurred in the 1980s and significantly impacted the fisheries and watersheds cumulatively along with the ongoing grazing practices, we believe that this estimate is highly optimistic and likely does not take into account other possible

cumulative adverse impacts that might occur (fires of 2000; potential warming effects, etc.).

The EA points out that, with the exclusion of grazing, (Alt. 3), the adversely affected riparian areas could reach desired conditions within 5 years (p. 2-8) and show "noticeable improvements" in as little as 3 years (p. 3.3-9).

The EA appears to suggest that loss of the availability of these two allotments might cause the permittee to not have a viable operation and to possibly end up subdividing the base property. (p. 3.7-5). This appears to be pure speculation on the part of the writer and does not seem borne out by the available facts. The permittee also has the Warm Springs Allotment (p. 1-2) and in fact is the 'new' permittee for the Waugh Gulch Allotment (p. 1-4; 3.7-2). Not having the Waugh Allotment before didn't drive him out of business. He also took non-use in 2001 and 2007 and reduced use or rested other various pastures since 2000 (utilization history p. 1). That lack of use didn't drive him out of ranching either. Unfortunately, ample Valley history demonstrates that subdividing is much more profitable than agricultural endeavors and the decision whether to subdivide will be made by the owner based on personal overall economic desires.

The EA points out that the income to the FS from grazing fees (Alt. 2) would be only $331, while the costs to administer the permit would be about $3,700 (p. 3.7 -4). This means the grazing that is adversely affecting the already degraded riparian areas and fisheries is being heavily subsidized by the taxpayers. This really does not make any economic or environmental sense whatsoever. The economic value of clean water and a self-sustaining native fishery is well-known and vastly exceeds the grazing economics. Likewise, the economic value of big game hunting versus grazing is much greater too, yet the EA points out that this grazing proposal will "conflict" with an outfitter's permitted operations on approximately ~30% of the allotment (p. 2-9). Noxious weeds have increased in the Waugh Allotment over the past 25 years (p. 3.7-3) and have reduced available forage for livestock and big game. The costs of ground-based and aerial herbicide spraying in the Waugh Allotment further add to the grazing subsidy (p. 2-7; 3.1-13). Cross-country OHV use was prohibited by the 2001 OHV Amendment (p. 3.1-14), yet the permittee is allowed to ride OHVs cross-country (p. 3.4-2) thereby causing additional weed spread and potentially causing user-created two-track trails that other OHV riders may begin utilizing after they become evident on-the-ground.

The EA presents that Alternative 3 would 'cost' the FS approximately $10,000 to remove the riparian fencing and water troughs (p. 3.7 -4). We do see any 'need' to do such removals in the near future and believe it distorts the benefits/cost ratio between the alternatives presented.

Soils in the Waugh Gulch, West Fork Camp Creek and un-named tributaries have compaction concerns caused by grazing (p. 3.1-8). Soil damage tends to be in accessible riparian areas from livestock grazing (p. 3.1-10). Approximately 4% of the Waugh Allotment has detrimental soil conditions (p. 3.1-14). Adverse impacts to soils are interconnected with adverse impacts to streams (p. 3.1-2, 3). About 4.5 miles of stream miles are accessible to livestock (p. 3.3-6) with the largest wetland areas being located in the Waugh Allotment (p. 3.3-2). Under Alternative 2, sediment inputs would remain at current levels, while Alternative 3 would reduce sediment inputs and lead to improvements in the East Fork of the Bitterroot River (p. 3.3-16).

The West Fork Camp Creek and Andrews Creek was listed as 'high risk' (impaired) and Waugh Gulch was listed as 'sensitive' (1991 BNF sensitive watershed analysis). Prairie Creek (state grazing) and Indian Tree were also listed as 'high risk'. They are all tributaries to Camp Creek (impaired) and therefore to the 'East Fork of the Bitterroot River (impaired) and which is on the 303d list (EA p.3.3-1; 3.3-7). Grazing is one of the cumulative causes for impairment on all of the above. Additionally, the BNF does not receive anywhere near the necessary funds to adequately maintain the existing road systems (EA p. 3.3-11). There are also the cumulative effects from State and private grazing and other land management activities that adversely impact the .fisheries and riparian areas. It appears that Alternative 2 does not adequately comply with the CWA - its goal is not for streams to be 'maintained' in a degraded condition.

Map 3 demonstrates where fish habitat is accessed and impacted by grazing. Bull trout are found only in the West Fork Camp Creek and the lowest end of Maynard Creek. In the West Fork Camp Creek, bull trout have not found in statistically valid numbers (p. 3.2-2), therefore it appears to us there is a significant possibility this population is currently at high risk of extirpation. Bull trout are uncommon to rare in Camp Creek and the East Fork of the Bitterroot River (id.). There is an effects determination' presented for WCT (p. 3.2-13), but we could not find any such determination for bull trout.

The NFMA requires that viable populations must be maintained, as does the ESA Alternative 3 would have the most positive cumulative effect on the fishery, would strengthen the viability of bull trout and westslope cutthroat trout in Camp Creek, and maintain their viability in the East Fork of the Bitterroot River. Alternative 3 has the best chance of strengthening the viability of native trout populations (p. 3.2-13). Alternative 2, at best, would only 'maintain' the diminished watershed and native fish populations at their current existing levels and therefore would not fully comply with those laws.

It appears the potential direct and indirect adverse cumulative environmental impacts resulting from Alternative 2 are highly significant and would be of long duration. The potential for extirpation or loss of viability of the native fisheries alone should require that an EIS be prepared.

Please continue us on your mailing list for this project and please send us any future NEPA documents or decisions as they become available.

Sincerely,

/s/ John D Grove

for

Jim Miller
President

Joe Ferraro, Indian Summer Outfitters, Inc

I would like to comment on two issues concerning the grazing allotments in the Waugh and Andrews areas. The File Code on the letter I recieved is 1950-1.

I have discussed both of these issues with Gil Gale, the Rangeland Management Specialist. We have no issues with the proposed action however the enforcement of the regulations are a concern.

In the past grazing dtes were to end on August 15th to let the game settle down and to allow time for removal of stragglers in time to avoid conflicts with our fall archery hunters beginning on the first saturday of September. Not only have there been more than the 10% allowable but they have been grazing the allotments well beyond the scheduled use days.

The other issue was not mentioned in the Assesment. It is concerning the barbed wire fence along the ridge at the interesection of the 177 and 178 trails. The fence was not a feasible idea to begin with as this is a major saddle in the ridge where game crosses regularly. The fence was down within weeks of being installed. Since then the fence has been down except for a section or two. Also... the snow drift accumulates early on tthis ridge and it is a concern that livestock and elk may be injured when attempting to cross where they can't see the fence. We are not sure if it a concern but the gate that was constructed at the end of the 178 trail has been in total disrepair and is also a hazard as well as very unsightly to ourselves and our clients looking for a true western outdoor experience. Gil informed me late in 2007 that the fence would be either removed, repaired or possibly put up when needed and dropped to the ground when not in use. We feel that this is a bad idea since the fence was never tended to in the past. We felt it neccesary to comment on the subject since it did not appear in the assesment.

Thank you,
Joe Ferraro
Indian Summer Outfitters Inc.
408-360-5070